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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/805,099	03/13/2001	Gayle Marie Frankenbach	8244	2087

27752 7590 02/13/2009  
THE PROCTER & GAMBLE COMPANY  
Global Legal Department - IP  
Sycamore Building - 4th Floor  
299 East Sixth Street  
CINCINNATI, OH 45202

EXAMINER
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NGUYEN, TRI V

ART UNIT	PAPER NUMBER
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1796

MAIL DATE	DELIVERY MODE
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02/13/2009

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/805,099	<b>Applicant(s)</b> FRANKENBACH ET AL.	
	<b>Examiner</b> TRI V. NGUYEN	<b>Art Unit</b> 1796	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 November 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11, 15-18, 22, 24-53, 56-75 and 77-80 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11, 15-18, 22, 24-53, 56-75 and 77-80 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## **DETAILED ACTION**

### ***Request for Continued Examination***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 11/18/08 has been entered.

### ***Response to Amendment***

2. Claims 1-11,15-18,22,24-53,56-75 and 77-80 are pending. Claims 12-14,19-21,23,54,55 and 76 are cancelled.

3. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) for the reasons set forth in the previous office action dated 05/12/08.

4. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of "Canadian Advertising Success Stories 1999: Sunlight Laundry Detergent" document for the reasons set forth in the previous office action dated 05/12/08.

5. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of "Indiana Marketing

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Educators' Update" document for the reasons set forth in the previous office action dated 05/12/08.

6. Claims 1-11,15-18,22,24-53,56-75 and 77-80 stand rejected under 35 U.S.C. 103(a) as obvious over Frankenbach et al. (US 6,491,840) and further in view of Trinh et al. (US 5,977,055) for the reasons set forth in the previous office action dated 05/12/08.

### ***Response to Arguments***

7. Applicant's arguments filed regarding Frankenbach et al. have been fully considered but they are not persuasive.

The declaration under 37 CFR 1.132 filed 11/18/08 is insufficient to overcome the rejection of claims 1-11,15-18,22,24-53,56-75 and 77-80 based upon the cited references (see above for details) as set forth in the last Office action dated 05/12/08. Applicant argues that the rejection under US 6,491,840 is not "by another" as shown by a 132 declaration by one inventor, Gayle Marie Frankenbach. However, it is noted that MPEP 716.10 states "[...] it is incumbent upon the inventors named in the application, in response to an inquiry regarding the appropriate inventorship under 35 U.S.C. 102(f) or to rebut a rejection under 35 U.S.C. 102(a) or (e), to provide a satisfactory showing by way of affidavit under 37 CFR 1.132 that the inventorship of the application is correct in that the reference discloses subject matter derived from the applicant rather than invented by the author, patentee, or applicant of the published application notwithstanding the authorship of the article or the inventorship of the patent or published application. In re Katz, 687 F.2d 450, 455, 215 USPQ 14, 18 (CCPA 1982)" thus the filed 132 is not found persuasive and compliant since inventor Gayle Marie Frankenbach does not represent the inventorship for the present application.

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***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Bamborough et al. (US 20060235764) teach cross-marketing detergent products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to TRI V. NGUYEN whose telephone number is (571)272-6965. The examiner can normally be reached on M-F 8:00 AM to 5:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vasu Jagannathan can be reached on (571) 272-1119. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/T. V. N./  
Examiner, Art Unit 1796  
February 12, 2009

/Lorna M Douyon/  
Primary Examiner, Art Unit 1796